

PEARSON, J.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

FREDERICK BANKS,)	
)	CASE NO. 4:13cv490
Petitioner,)	
)	
v.)	JUDGE BENITA Y. PEARSON
)	
U.S. MARSHALL, <i>et al.</i> ,)	
)	<u>MEMORANDUM OF OPINION AND</u>
Respondents.)	<u>ORDER</u> [Regarding ECF No. 12]

On July 9, 2013 the Court issued an Order denying Petitioner's petition and dismissing the action. [ECF No. 9](#). Petitioner filed a Motion for Reconsideration and to Alter and Amend Judgment pursuant to [Fed. R. Civ. Pro 59\(e\)](#). [ECF No. 12](#). Petitioner argues that

The Court as stated did have jurisdiction to hear this case but the court decided not to take jurisdiction over these claims however since the case was removed from State Court the proper remedy was to remand the case back to state court so that the state court could hear the claims on the merits.

[ECF No. 12 at 1](#). Petitioner misstates the Court's earlier basis for dismissing the action. The Court did not "decide" to decline jurisdiction. Rather, the Court found that Petitioner's claim did not state a cognizable request for habeas relief. [ECF No. 9 at 5](#). The Court also found that the claim lacked any live case or controversy, because the relief Petitioner sought had already been granted. [ECF No. 9 at 6-7](#).

Accordingly, Petitioner's motion ([ECF No. 12](#)) is denied. Further, pursuant to [28 U.S.C. § 1915\(a\)\(3\)](#), the Court certifies that an appeal could not be taken in good faith, and that there is

(4:13cv490)

no basis upon which to issue a certificate of appealability. [28 U.S.C. § 2253](#); [Fed. R. App. P. 22\(b\)](#).

IT IS SO ORDERED.

July 24, 2013
Date

/s/ Benita Y. Pearson
Benita Y. Pearson
United States District Judge